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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,323	08/02/2001	Jay Darrell Gillespie	34423/237429	5051
826 7590 01/21/2009 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000				
EXAMINER				
STEELE, JENNIFER A				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAY DARRELL GILLESPIE,
DANIEL DEYING KONG and ROBERT C. ALEXANDER

Application No. 09/921,323
Technology Center 1700

Mailed: January 21, 2009

Before KAREN SWEENEY, *Paralegal Specialist*

SWEENEY, *Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on December 15, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matters requiring attention prior to docketing.

APPEAL BRIEF, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Appeal Brief filed February 15, 2008 under the heading "Grounds of rejection to be reviewed on appeal" is unclear and/or is not consistent with the grounds of rejection of claims of record. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified.

A review of the last Office action, including any mailed Advisory Action(s) finds that claims 1, 4-10, 20 and 29-30 are 103(a); whereas Appellant(s) has/have either not indicated the grounds of rejection of these claims or has improperly listed these claims as 1-10, 29 and 30 are 103(a). Correction of the Grounds of rejection to be reviewed on appeal for all claims is required.

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed on February 15, 2008 defective;
- 2) notify Appellants to file a paper properly addressing the Grounds of rejection of all claims;
- 3) for such further action as may be required.

Application No. 09/921,323

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

kis

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000